

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SOFTWARE AG, INC., and SOFTWARE AG,

Plaintiffs,

08 Civ. 389 (CM)(FM)

-against-

CONSIST SOFTWARE SOLUTION,
INC., f/k/a CONSIST INTERNATIONAL,
INC., and NATALIO FRIDMAN,

Defendants.

ORDER

McMahon, J.:

I arrived at the courthouse this morning to discover that one entire drive on the court's internal computer system – the one that contains all the work product from this chambers – had mysteriously disappeared in the night, wiping out every decision, letter and draft that has been written by me since 1998. The Information Services staff tells us they are "working on it." I do not know what that means. However, I am unable to access the opinion that I had planned to finish and release later today. I do not know when I will be able to access that opinion.

I am therefore issuing an emergency interim order enjoining defendants, and all their subsidiaries and affiliates and persons acting in concert with them, from taking any step, either in the United States or in any foreign country, to register, or to take any steps in connection with any pending registration, of any trademark associated with products manufactured by plaintiffs and previously distributed by defendants in the South American Territory; or from applying for or obtaining any order of any court or administrative/governmental agency in the United States or in any foreign country relating to the "1998 Agreement" or to the subject matter of the instant litigation; or from otherwise interfering with the ability of plaintiffs to sell and service products manufactured by them under the trademarks and trade names that are associated with those products throughout the world; or from taking any other step that would frustrate the ability of this court to adjudicate the matters before it, including specifically any rights that Consist Software Solutions and Natalio Fridman, or any entities owned or controlled by them, presently have or do not have as a result of actions taken while the "1998 Agreement" was in effect.

Copies mailed (faxed/handed to counsel on 2/19/08

I specifically enjoin defendants Consist Software Solutions and Natalio Fridman to cause any corporation or entity that is a subsidiary or affiliate of Consist and Fridman (including, *but not limited to*, the corporations collectively known to this court as "Consist Brazil") to cease and desist immediately from engaging in any of the acts enjoined above, and to represent to this court, under oath, by 5 PM today, that they have done so.

If any action is required of Consist Brazil or any other foreign subsidiary or affiliate of Consist and Fridman in any foreign court, agency or tribunal while this injunction is in force, I specifically enjoin defendants Consist Software Solutions and Natalio Fridman to cause such foreign subsidiary or affiliate to make the foreign court, agency or tribunal aware of this order and to prohibit said foreign subsidiary or affiliate from taking any other steps in furtherance of any pending or contemplated action or proceeding in said foreign court, agency or tribunal.

Consist Software Solutions and Natalio Fridman are ordered to comply with this interim injunction on pain of contempt.

Dated: February 19, 2007



U.S.D.J.

BY ECF AND BY FAX TO ALL COUNSEL